

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Javier VARGAS-Morfin,

Defendant

) Magistrate Docket No.

) '08 MJ 0742

) COMPLAINT FOR VIOLATION OF:

) Title 8, U.S.C., Section 1326

) Deported Alien Found in the

) United States

FILED
2008 MAR 10 AM 11:22


U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY KWH DEPUTY

The undersigned complainant, being duly sworn, states:

On or about **March 8, 2008** within the Southern District of California, defendant, **Javier VARGAS-Morfin**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 10th DAY OF MARCH 2008



UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:**Javier VARGAS-Morfin****PROBABLE CAUSE STATEMENT**

On March 8, 2008 at approximately 8:00 p.m., Border Patrol Agent G. Avila was performing line watch duties in the Imperial Beach area of operations. This area is known as "Whiskey 4" and is located approximately 200 yards north of the U.S./Mexico International Border and one-half mile west of the San Ysidro, California Port of Entry.

At approximately 8:05 p.m., Agent Avila notified the All-Terrain Vehicle Unit via service radio that he had spotted one individual running north from the International boundary and was headed towards the part of the fence known as the "Charlie Gate". Agent Avila followed the subject to the north levee until the ATV Unit arrived. At this point the subject hid in the tall grass south of the river. Agent Avila advised Agent A. Furet of the location of where he had last seen the subject. As Agent Furet approached the subject he crossed onto the north side of the river. Upon reaching the area, Agent Avila approached the subject and identified himself as a Border Patrol Agent and performed an immigration inspection on the subject. The individual was later identified as the defendant **Javier VARGAS-Morfin**. The defendant freely admitted to being a citizen and national of Mexico illegally present in the United States. Agent Aviles then placed the defendant under arrest and had him transported to the Imperial Beach Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on September 28, 2005 through San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights in the Spanish language. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally. The defendant also stated his intended destination was San Jose, California.